

2005 DRAFTING REQUEST

Bill

Received: **09/23/2004**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Blaine**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - med. assist.**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Blaine, BB0010 -

Topic:

Prenatal care under BadgerCare for pregnant immigrant women

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|--|--|------------------------|----------------------------------|------------------------|-----------------|-----------------|
| /? | pkahler 09/29/2004 pkahler 10/19/2004 | kfollett 09/30/2004 wjackson 10/21/2004 | rschluet 10/01/2004 | _____ _____ _____ _____ | mbarman 10/01/2004 | | State |
| /P2 | | | pgreensl 10/22/2004 | _____ _____ | lnorthro 10/22/2004 | | State |
| /P3 | pkahler 01/07/2005 | wjackson 01/07/2005 | pgreensl 01/07/2005 | _____ _____ | lnorthro 01/07/2005 | | State |
| /1 | pkahler 01/17/2005 | wjackson 01/17/2005 | pgreensl 01/18/2005 | _____ _____ | lnorthro 01/18/2005 | | State |

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1 WJ 1/17
1/18
p8

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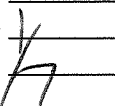
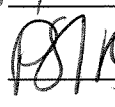
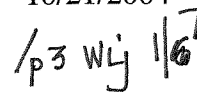
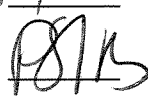
Topic:

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Instructions:

See Attached

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Topic:

BadgerCare

Prenatal care under ~~MA~~ for pregnant immigrant women

Instructions:

See Attached

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| /? | pkahler 09/29/2004 | kfollett 09/30/2004 | rschluet 10/01/2004 | 10/21 | mbarman 10/01/2004 | | |

FE Sent For:

/p2 NLJ w/21

*10/21
p8*

*pg 1/20
<END>*

(mbarman 10/01/2004)

*D-Note
for P1 only
—no draft*

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| /? | pkahler | 1P11/8 9/30 | 10 1 4 | | | | |
|----|---------|----------------|--------------|--|--|--|--|

FE Sent For:

<END>

BB0010

2003-05 Budget Bill Statutory Language Drafting Request

- Topic: Medicaid Prenatal Care to Immigrant Women
- Tracking Code: (Assigned by Government Operations Team)
- SBO team: Health and Insurance
- SBO analyst: Robert Blaine
 - Phone: 7-7980
 - Email: robert.blaine@doa.state.wi.us
- Agency acronym: DHFS
- Agency number: 435

Prenatal Care to Pregnant Immigrant Women

Current Language

s. 49.665 (1) (b) defines a child who is eligible for BadgerCare.

Proposed Change

The statute needs to be modified to include the fetus of a pregnant woman as a child for limited purposes. The intent of this change is to expand eligibility so that a pregnant woman who is not otherwise eligible for Medicaid or BadgerCare may receive prenatal care services under BadgerCare. Therefore, an expanded definition of 'child' or other statutory change needs to be for the stated limited purpose of covering prenatal care so that the father, or the spouse of the pregnant woman, does not become eligible because he is now the parent of a 'child' or in the child's family.

Effect of the Change

This change will expand BadgerCare eligibility to the fetus of a pregnant woman who is not otherwise eligible for Medicaid or BadgerCare so that the woman may receive prenatal care.

Rationale for the Change

Medicaid is a frequently utilized source of medical coverage for low-income mothers. Because non-qualifying immigrant women, who are low-income, receive MA coverage for only emergency services, they likely lack access to adequate prenatal care. For this reason, MA pays any increased costs of care for these children due to inadequate prenatal care. Inadequate prenatal care increases the likelihood of poor health status for the child. Extending BadgerCare eligibility to the fetus of pregnant women would allow Wisconsin to provide adequate prenatal care to non-qualifying mothers and reduce MA costs for their MA eligible children and ensure better health outcomes for the children.

Desired Effective Date: October 1, 2005
Agency: DHFS
Agency Contact: Nicole Groth
Phone: 266-9364

soon budget
DRAFTER'S NOTE

**FROM THE
LEGISLATIVE REFERENCE BUREAU**

PI
LRB-0261/dn

PJK: [signature]

*LPS/PA -
This is
only a D-Note -
no draft
attached
yet.*

Date

Robert:

LRB-0261 is the drafting request to define a child under BadgerCare as including a fetus so that pregnant immigrant women can get prenatal care. I need more information in order to accomplish that, so this first version is only a drafter's note.

If the definition for "child" is amended with nothing more, a fetus would be eligible for medical services as part of a family under s. 49.665 (4) (a) and not as a child who does not reside with his or her parents under s. 49.665 (4) (am). Under s. 49.665 (4) (a), the spouse of the child's mother would be eligible for services, too, which DHFS apparently wants to avoid. In addition, the child's mother would be eligible for more than prenatal care, and I don't know if the intention is to limit the services to prenatal care.

If the intention is to create a new category of eligible person^s for a limited purpose, does the definition of "child" need to be changed at all, or could the new category be a pregnant woman who is not eligible for MA? Do you want to limit the medical services to prenatal care? Do you want to limit the pregnant women to immigrant women since other pregnant women are eligible for MA? What other criteria need to be satisfied? Must income be the same as in the other categories under BadgerCare, i.e., not exceed 185 percent of poverty, or 200 percent of poverty if already covered? What happens once the child is born? Do you want to specifically address that or let the family be eligible under s. 49.665 (4) (a) if the other criteria are satisfied? The mother's spouse would then be eligible for coverage, too. What if, in that case, the family income is more than 185 percent, but less than 200 percent, of poverty? Is the family eligible to continue coverage or not since some (mother and fetus) but not all family members had coverage before the whole family became eligible under s. 49.665 (4) (a)?

Is a waiver from the federal Department of Health and Human Services needed if any change is made to the program?

Rather than starting with a conclusion for how to accomplish something, we need to start with what needs to be accomplished exactly. If you simply want to provide prenatal care to immigrant women only until the child's birth, or until a given amount of time after the birth, changing the definition of "child" may not be the best way to accomplish that. You may get more than you want and less than you want.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0261/P1dn
PJK:kjf:rs

October 1, 2004

Robert:

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Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Wednesday, October 13, 2004 4:19 PM
To: Kahler, Pam
Subject: FW: FW: D Note only

Re draft 0261, prenatal care for immigrant women.

-----Original Message-----

From: Groth, Nicole
Sent: Wednesday, October 13, 2004 10:00 AM
To: Blaine, Robert
Subject: Re: FW: D Note only

Robert:

I am providing a response to the drafter's note -- hopefully this will more clearly explain the intent of statutory language change, and we can go forward from there. Let me know if you have any questions.

"Coverage is only for the fetus, which obviously means prenatal care to the pregnant woman. Spouses are not to be covered for this expansion. We only want prenatal care for the mother. Prenatal care may have an expanded application but that probably doesn't need to be defined in the statute. The purpose is to get prenatal care to immigrants but also to incarcerated pregnant women. The eligibility category has to be the fetus, however, because if the coverage is for the pregnant woman then immigrants will fail because of citizenship issues. Fetuses don't have a citizenship status so that's how they can be eligible.

A waiver is not needed because the federal regulations have defined a SCHIP child to include a fetus. We will be changing our SCHIP state plan. We intend to have the same financial eligibility requirements for the fetus. Once born, regular medicaid or existing BadgerCare will apply, so nothing in this drafting needs to be said about what happens upon birth. If there's a husband in the home that meets nonfinancial eligibility, then he'd be added to the now born child's group and the financial eligibility would be determined under existing BadgerCare."

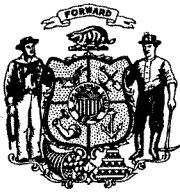
*fetus or
parents?*

>>> Blaine, Robert 10/01/04 11:33AM >>>
drafters note from the prenatal care DIN.

-----Original Message-----

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.state.wi.us]
Sent: Friday, October 01, 2004 8:47 AM
To: Blaine, Robert
Subject: D Note only

Ronald Schlueter
Legislative Reference Bureau
ron.schlueter@legis.state.wi.us
261-5414



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-02617

PJK.....
WJ

LPS:
Please
fix request
sheet

BadgerCare

DOA:.....Blaine, BB0010 - Prenatal care under MA for pregnant immigrant women ✓

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION ✓

D-note

SOON

do not
gen cut ✓

1 AN ACT relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

MEDICAL ASSISTANCE ✓

Under current law, the Badger Care health care program (BadgerCare) provides partially or wholly subsidized health care coverage to eligible families and children. A child who does not reside with his or her parent or a family may be eligible for health care coverage under BadgerCare if the child's or family's income does not exceed 185% of the federal poverty line and the child or family meets certain nonfinancial criteria, such as not having access to employer-subsidized health care coverage. Current law defines "child" as a person under the age of 19 years and defines "family" as a unit that consists of at least one child and his or her parent or parents, all of whom reside in the same household.

This bill expands BadgerCare to provide health care coverage to an unborn child whose parent or parents are not eligible for BadgerCare as a family, if the unborn child's parent or parents meet the current law income and nonfinancial eligibility requirements. An "unborn child" is defined as a person from conception to live birth. The effect of the change is to provide prenatal care to low-income pregnant women who are not otherwise eligible for BadgerCare or Medical Assistance.

family or a

Percent

Page 102

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (bc) of the statutes is amended to read:

20.435 (4) (bc) *Health Badger Care health care for low-income families program.* As a continuing appropriation, the amounts in the schedule for the badger care *Badger Care health care program for low-income families* under s. 49.665.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.435 (4) (p) of the statutes is amended to read:

20.435 (4) (p) *Federal aid; Badger Care health care for low-income families program.* All federal moneys received for the badger-care *Badger Care health care program for low-income families* under s. 49.665, to be used for that purpose.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.435 (4) (x) of the statutes is amended to read:

20.435 (4) (x) *Health Badger Care health care for low-income families program.* From the ~~medical assistance~~ *Medical Assistance* trust fund, all moneys received for the badger-care *Badger Care health care program for low-income families* under s. 49.665.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977

c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 SECTION 4. 49.665 (1) (b) of the statutes is amended to read:

2 49.665 (1) (b) "Child" means a person who is born and who is under the age of

3 19.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

4 SECTION 5. 49.665 (1) (g) of the statutes is created to read:

5 49.665 (1) (g) "Unborn child" means a person from the time of conception until

6 it is born alive.

7 SECTION 6. 49.665 (2) (b) of the statutes is amended to read:

8 49.665 (2) (b) If the department of health and family services determines that

9 it needs a waiver to require the verification specified in sub. (4) (a) 3m. ~~and~~ ^{or} (ap) 3m.,

10 the department shall request a waiver from the secretary of the federal department

11 of health and human services and may not implement the verification requirement

12 under sub. (4) (a) 3m. ~~and~~ ^{or} (ap) 3m. unless the waiver is granted. If a waiver is

13 required and is granted, the department of health and family services may

14 implement the verification requirement under sub. (4) (a) 3m. ~~and~~ ^{or} (ap) 3m. as

15 appropriate. If a waiver is not required, the department of health and family services

16 may require the verification specified in sub. (4) (a) 3m. ~~and~~ ^{or} (ap) 3m. for eligibility

17 determinations and annual review eligibility determinations made by the

18 department, beginning on January 1, 2004.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

19 SECTION 7. 49.665 (3) of the statutes is amended to read:

20 49.665 (3) ADMINISTRATION. The department shall administer a program to

21 provide the health services and benefits described in s. 49.46 (2) to persons that meet

1 the eligibility requirements specified in sub. (4). The department shall promulgate
2 rules setting forth the application procedures and appeal and grievance procedures.
3 The department may promulgate rules limiting access to the program under this
4 section to defined enrollment periods. The department may also promulgate rules
5 establishing a method by which the department may purchase family coverage
6 offered by the employer of a member of an eligible family or ~~by~~ of a member of a an
7 eligible child's household, or family or individual coverage offered by the employer
8 of a parent of an eligible unborn child, under circumstances in which the department
9 determines that purchasing that coverage would not be more costly than providing
10 the coverage under this section.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33. ✓

11 **SECTION 8.** 49.665 (4) (ap) of the statutes is created to read:

12 49.665 (4) (ap) An unborn child whose parent or parents are not eligible for
13 health care coverage under par. (a) ✓ is eligible for health care coverage under this
14 section ✓ if the unborn child meets the following requirements:

15 ✓ 1. The income of the unborn child's parent or parents does not exceed 185% ^{9 percent} of
16 the poverty line, except as provided in par. (at) ✓ and except that the parent or parents
17 of an unborn child that is already receiving health care coverage under this section ✓
18 may have an income that does not exceed 200% ^{9 percent} of the poverty line. The department
19 shall establish by rule the criteria to be used to determine income.

20 ✓ 2. The unborn child's parent or parents do not have access to
21 employer-subsidized health care coverage.

22 ✓ 3. The unborn child's parent or parents have not had access to
23 employer-subsidized health care coverage within the time period established by the
24 department by rule, but not to exceed 18 months, immediately preceding application

1 for health care coverage under this section. The department may establish
2 exceptions to this time period restriction by rule.

3 ✓ 3m. Each of the unborn child's parents who is employed provides verification
4 from his or her employer, in the manner specified by the department, of his or her
5 earnings, of whether the employer provides health care coverage for which the
6 unborn child is eligible, and of the amount that the employer pays, if any, towards
7 the cost of the health care coverage, excluding any deductibles or copayments
8 required under the coverage.

9 ✓ 4. The unborn child and the parent or parents of the unborn child meet all other
10 requirements established by the department by rule. In establishing other eligibility
11 criteria, the department may not include any health condition requirements.

12 **SECTION 9.** 49.665 (4) (at) 3. ✓ of the statutes is amended to read:

13 49.665 (4) (at) 3. The department may not adjust the maximum income level

Percent
14 of 200% of the poverty line for persons, or the parent or parents of an unborn child,
15 already receiving health care coverage under this section.

16 History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33. ✓

SECTION 10. 49.665 (4) (c) ✓ of the statutes is amended to read:

17 49.665 (4) (c) No person may be denied health care coverage under this section
18 solely because of a health condition of that person ~~or~~, of any family member of that
19 person, or of a parent of an unborn child.

20 History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33. ✓

SECTION 11. 49.665 (5) (ag) ✓ of the statutes is amended to read:

21 49.665 (5) (ag) Except as provided in pars. (am), (b), and (bm), a family, ~~or a~~
22 child who does not reside with his or her parent, or a parent of an unborn child, who
23 receives health care coverage under this section shall pay a percentage of the cost of
24 that coverage in accordance with a schedule established by the department by rule.

percent
1 The department may not establish or implement a schedule that requires a family
2 ~~or, child, or parent of an unborn child~~ to contribute, including the amounts required
3 under par. (am), more than 5% of the family's ~~or, child's, or unborn child's parent's~~
4 income towards the cost of the health care coverage provided under this section.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

5 **SECTION 12.** 49.665 (5) (am) (intro.) of the statutes is amended to read:

6 49.665 (5) (am) (intro.) Except as provided in pars. (b) and (bm), a child ~~or,~~
7 family member, or parent of an unborn child who receives health care coverage under
8 this section shall pay the following cost-sharing amounts:

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

9 **SECTION 13.** 49.665 (5) (b) of the statutes is amended to read:

10 49.665 (5) (b) The department may not require a family, ~~or child~~ who does not
11 reside with his or her parent, or unborn child's parent, with an income below 150%
12 of the poverty line to contribute to the cost of health care coverage provided under
13 this section.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

14 **SECTION 14.** 49.665 (5) (c) of the statutes is amended to read:

15 49.665 (5) (c) The department may establish by rule requirements for wage
16 withholding as a means of collecting the family's or unborn child's parent's share of
17 the cost of the health care coverage under this section.

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

18 **SECTION 9421. Effective dates; health and family services.**

19 (1) BADGER CARE COVERAGE FOR UNBORN CHILDREN. The treatment of section
20 49.665 (1) (g), (2) (b), (3), (4) (ap), (at) 3., and (c) and (5) (ag), (am) (intro.), (b), and
21 (c) of the statutes takes effect on October 1, 2005.

22 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0261/2dn

PJK:.....

Wlj

Robert:

Thank you for the clarifying comments; they were very helpful.

I made all of the provisions related to income apply to the unborn child's parent or parents. You may want them to apply to the unborn child instead, although, it seems to me, that wouldn't make much sense.

Because the definition of "family" depends on the definition of "child," I had to *exclude* an unborn child from the definition of "child," instead of *including* an unborn child in the definition. If an unborn child were included in the definition of "child," the pregnant woman and her husband, if they live in the same household, would both be eligible for BadgerCare under s. 49.665 (4) (a).¹ In addition, they would be eligible for all types of health care, not just prenatal care.

I took the liberty of changing the titles and text of some of the BadgerCare appropriations that were technically inaccurate.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0261/P2dn
PJK:wlj:pg

October 21, 2004

Robert:

Thank you for the clarifying comments; they were very helpful.

I made all of the provisions related to income apply to the unborn child's parent or parents. You may want them to apply to the unborn child instead, although, it seems to me, that wouldn't make much sense.

Because the definition of "family" depends on the definition of "child," I had to *exclude* an unborn child from the definition of "child," instead of *including* an unborn child in the definition. If an unborn child were included in the definition of "child," the pregnant woman and her husband, if they live in the same household, would both be eligible for BadgerCare under s. 49.665 (4) (a). In addition, they would be eligible for all types of health care, not just prenatal care.

I took the liberty of changing the titles and text of some of the BadgerCare appropriations that were technically inaccurate.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Friday, November 26, 2004 2:25 PM
To: Kahler, Pam
Subject: FW: Draft 0261 -- Prenatal care for immigrant women



Unborn child LRB
drft 11-04-04...

Pam -- attached are some comments on the prenatal care for immigrants draft. Sorry it's taken me so long to forward this, I lost track of it.

Their comments seem like a lot, but most of it is replacing the word "parent" with "mother." This makes sense, because only women will qualify for the MA prenatal care benefits. Thus, we wouldn't want to imply that both the mom & dad (i.e., each parent) would qualify for care if there is an unborn child.

At the end of their comments, there are requests for some additional provisions. If either of these two suggestions are unclear, you can feel free to contact Nicole Groth directly.

Thanks,
Robert

-----Original Message-----

From: Groth, Nicole
Sent: Wednesday, November 10, 2004 9:32 AM
To: Blaine, Robert
Cc: LaPhilliph, John; Malofsky, Shelley
Subject: Re: Draft 0261 -- Prenatal care for immigrant women

Robert,
Attached are comments and suggested changes for the LRB draft for prenatal care that were provided by DHFS Office of Legal Council and DHCF Bureau of Health Care Eligibility. Please let me know if you have any questions.
Nicole

>>> Blaine, Robert 10/24/04 11:16AM >>>

Nicole -- see the new draft and additional drafter's note. Make sure this is what you want. This may be a draft you want OLC to weigh in on. I would like to have comments by 11-5 if possible.

Thanks,
Robert

JA

JL

DHFS Staff Comments/Edits to LRB Statutory Draft LRB-0261

November 2, 2004

We have added edits below and indicated them using the track changes feature in Word. Comments and notes have been included to explain DHFS concerns about the draft.

LRB-0261/P2

PJK:wlj:pg

2005 - 2006 LEGISLATURE

DOA:.....Blaine, BB0010 - Prenatal care under BadgerCare for pregnant immigrant women

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, the Badger Care health care program (BadgerCare) provides partially or wholly subsidized health care coverage to eligible families and children. A family, or a child who does not reside with his or her parent, may be eligible for health care coverage under BadgerCare if the child's or family's income does not exceed 185 percent of the federal poverty line and the child or family meets certain nonfinancial criteria, such as not having access to employer-subsidized health care coverage. Current law defines "child" as a person under the age of 19 years and defines "family" as a unit that consists of at least one child and his or her parent or parents, all of whom reside in the same household.

This bill expands BadgerCare to provide health care coverage to an unborn child whose ~~parent or parents~~ mother ~~are~~ is not eligible for BadgerCare ~~as a family~~, if the unborn child's ~~parent or parents~~ mother meets the current law income and nonfinancial eligibility requirements. SEE NOTE BELOW An "unborn child" is defined as a person from conception to live birth. The effect of the change is to provide prenatal care to low-income pregnant women who are not otherwise eligible for BadgerCare or Medical Assistance.

NOTE: Saying that the mother needs to meet nonfinancial eligibility requirements is not completely accurate. The women, whose unborn children we would cover, are those who are ineligible for regular Medicaid and BadgerCare benefits because they don't meet all the non-financial eligibility criteria. One group of women who are targeted by this initiative are those who lack citizenship or a qualifying alien status under 8 USC 1601, (et seq.) [I cite the federal law because state statutes and administrative rules have not been modified to reflect changes made by PRAWORA in 1996 (P.L. 104-193).] Another targeted group are women who are inmates of a public institution (see s. 49.47(6)(c)3., stats. & HFS 103.03(6)). Finally, many of the women lacking a qualifying alien status will also not be in possession of, nor be able to apply for, a Social Security Number, which is another non-financial requirement for BadgerCare under s. 49.82 (2), stats. We

want to cover these women, but would apply the other BadgerCare nonfinancial eligibility conditions. Therefore, they would still have to meet the requirements in the statutes of: 1. Not having access to employer-sponsored health insurance, and 2. Paying BadgerCare premiums if their income exceeds 150% FPL, and 3. Complying with the employer verification requirements. They will also need to comply with the admin. rule requirements other than those exceptions mentioned above.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (bc) of the statutes is amended to read:

20.435 (4) (bc) *Health Badger Care health care for low-income families program.* As a continuing appropriation, the amounts in the schedule for the badger care Badger Care health care program for low-income families under s. 49.665.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.435 (4) (p) of the statutes is amended to read:

20.435 (4) (p) *Federal aid; Badger Care health care for low-income families program.* All federal moneys received for the badger care Badger Care health care program for low-income families under s. 49.665, to be used for that purpose.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.435 (4) (x) of the statutes is amended to read:

20.435 (4) (x) *Health Badger Care health care for low-income families program.* From the medical assistance Medical Assistance trust fund, all moneys received for the badger care Badger Care health care program for low-income families under s. 49.665.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 49.665 (1) (b) of the statutes is amended to read:

49.665 (1) (b) "Child" means a person who is born and who is under the age of 19.

SECTION 5. 49.665 (1) (g) of the statutes is created to read:

49.665 (1) (g) "Unborn child" means a person from the time of conception until it is born alive.

SECTION 6. 49.665 (2) (b) of the statutes is amended to read:

49.665 (2) (b) If the department of health and family services determines that it needs a waiver to require the verification specified in sub. (4) (a) 3m. or (ap) 3m., the department shall request a waiver from the secretary of the federal department of health and human services and may not implement the verification requirement under sub. (4) (a) 3m. or (ap) 3m. unless the waiver is granted. If a waiver is required and is granted, the department of health and family services may implement the

verification requirement under sub. (4) (a) 3m. or (ap) 3m. as appropriate. If a waiver is not required, the department of health and family services may require the verification specified in sub. (4) (a) 3m. or (ap) 3m. for eligibility determinations and annual review eligibility determinations made by the department, beginning on January 1, 2004.

SECTION 7. 49.665 (3) of the statutes is amended to read:

49.665 (3) ADMINISTRATION. The department shall administer a program to provide the health services and benefits described in s. 49.46 (2) to persons that meet the eligibility requirements specified in sub. (4). The department shall promulgate rules setting forth the application procedures and appeal and grievance procedures. The department may promulgate rules limiting access to the program under this section to defined enrollment periods. The department may also promulgate rules establishing a method by which the department may purchase family coverage offered by the employer of a member of an eligible family or by of a member of an eligible child's household, or family or individual coverage offered by the employer of a parent the mother of an eligible unborn child or the mother's spouse, under circumstances in which the department determines that purchasing that coverage would not be more costly than providing the coverage under this section.

SECTION 8. 49.665 (4) (ap) of the statutes is created to read:

49.665 (4) (ap) An unborn child whose ~~parent or parents~~mother ~~are~~is not eligible for health care coverage under par. (a) is eligible for health care coverage under this section if the unborn child meets the following requirements:

1. The family income of the unborn child's ~~parent or parents~~mother does not exceed 185 percent of the poverty line, except as provided in par. (at) and except that ~~the parent or parents~~family of an unborn child's mother that is already receiving health care coverage under this section may have an income that does not exceed 200 percent of the poverty line. The department shall establish by rule the criteria to be used to determine income.

2. The unborn child's ~~parent or parents~~mother does not have access to employer-subsidized health care coverage.

3. The unborn child's ~~parent or parents~~mother ~~have~~has not had access to employer-subsidized health care coverage within the time period established by the department by rule, but not to exceed 18 months, immediately preceding application for health care coverage under this section. The department may establish exceptions to this time period restriction by rule.

3m. Each member of the family of the unborn child's ~~parents~~mother who is employed provides verification from his or her employer, in the manner specified by the department, of his or her earnings, of whether the employer provides health care coverage for which the family of the unborn child's mother is eligible, and of the amount that the employer pays, if any, towards the cost of the health care coverage, excluding any deductibles or copayments required under the coverage.

4. The unborn child and the ~~parent or parents~~mother of the unborn child **meet all other**

requirements established by the department by rule. See NOTE below. In establishing other eligibility criteria, the department may not include any health condition requirements.

NOTE: We need to change this highlighted section because these women won't pass all the requirements in the existing rules (See NOTE on page 1) and we can't be sure of getting rule changes in place in time to implement this law change. The exceptions again for the mother are:

1. Citizenship or qualifying alien status.
2. Not being an inmate of a public institution or detained by legal process, and
3. Possessing or obtaining a social security number. (The unborn also does not need an SSN.)

SECTION 9. 49.665 (4) (at) 3. of the statutes is amended to read:

49.665 (4) (at) 3. The department may not adjust the maximum income level of ~~200%~~ 200 percent of the poverty line for persons, or the ~~parent or parents~~mother of an unborn child, already receiving health care coverage under this section.

SECTION 10. 49.665 (4) (c) of the statutes is amended to read:

49.665 (4) (c) No person may be denied health care coverage under this section solely because of a health condition of that person or, of any family member of that person, or of a parentthe mother of an unborn child.

SECTION 11. 49.665 (5) (ag) of the statutes is amended to read:

49.665 (5) (ag) Except as provided in pars. (am), (b), and (bm), a family, ~~or a~~ child who does not reside with his or her parent, or a parentmother of an unborn child, who receives health care coverage under this section shall pay a percentage of the cost of that coverage in accordance with a schedule established by the department by rule. The department may not establish or implement a schedule that requires a family or, child, or parentmother of an unborn child to contribute, including the amounts required under par. (am), more than ~~5%~~ 5 percent of the family's ~~or, child's, or unborn child's~~ parentmother's family income towards the cost of the health care coverage provided under this section.

SECTION 12. 49.665 (5) (am) (intro.) of the statutes is amended to read:

49.665 (5) (am) (intro.) Except as provided in pars. (b) and (bm), a child or, family member, or parentmother of an unborn child, who receives health care coverage under this section shall pay the following cost-sharing amounts:

SECTION 13. 49.665 (5) (b) of the statutes is amended to read:

49.665 (5) (b) The department may not require a family, or child who does not reside with his or her parent, or unborn child's parentmother, with an income below ~~150%~~

150 percent of the poverty line, to contribute to the cost of health care coverage provided under this section.

SECTION 14. 49.665 (5) (c) of the statutes is amended to read:

49.665 (5) (c) The department may establish by rule requirements for wage withholding as a means of collecting ~~the a~~ family's or unborn child's parentmother's share of the cost of the health care coverage under this section.

SECTION 9421. Effective dates; health and family services.

(1) BADGER CARE COVERAGE FOR UNBORN CHILDREN. The treatment of section 49.665 (1) (g), (2) (b), (3), (4) (ap), (at) 3., and (c) and (5) (ag), (am) (intro.), (b), and (c) of the statutes takes effect on ~~October~~January 1, 2005~~2006~~.
(END)

In addition to the edits and comments above, we believe we need statutory language to clarify that only prenatal services be available to the mother of the unborn.

We also recommend adding a provision that requires a medical verification of the mother's pregnancy. In addition, to be consistent with the BadgerCare policy, there should be a restriction against backdated eligibility for the unborn children. To do this we think it should be stated in the law that eligibility may commence no earlier than the first of the month in which the mother provides a medical verification of her pregnancy to the county/tribal Human Services/Social Services agency.

Revised DHFS Staff Comments/Edits to LRB Statutory Draft LRB-0261

November 2 ~~December 14~~, 2004

CHANGES FROM LAST COMMENTS HIGHLIGHTED IN COLOR

We have added edits below and indicated them using the track changes feature in Word. Comments and notes have been included to explain DHFS concerns about the draft.

LRB-0261/P2

PJK:wlj:pg

2005 - 2006 LEGISLATURE

DOA:.....Blaine, BB0010 - Prenatal care under BadgerCare for pregnant immigrant women

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, the Badger Care health care program (BadgerCare) provides partially or wholly subsidized health care coverage to eligible families and children. A family, or a child who does not reside with his or her parent, may be eligible for health care coverage under BadgerCare if the child's or family's income does not exceed 185 percent of the federal poverty line and the child or family meets certain nonfinancial criteria, such as not having access to employer-subsidized health care coverage. Current law defines "child" as a person under the age of 19 years and defines "family" as a unit that consists of at least one child and his or her parent or parents, all of whom reside in the same household.

This bill expands BadgerCare to provide health care coverage to an unborn child whose parent or parents ~~mother are~~ is not eligible for BadgerCare as a family, if the unborn child's parent or parents family meets the current law income and nonfinancial eligibility requirements. SEE NOTE BELOW An "unborn child" is defined as a person from conception

to live birth. The effect of the change is to provide prenatal care to low-income pregnant women who are not otherwise eligible for BadgerCare or Medical Assistance.

NOTE: Saying that the mother needs to meet nonfinancial eligibility requirements is not completely accurate. The women, whose unborn children we would cover, are those who are ineligible for regular Medicaid and BadgerCare benefits because they don't meet all the non-financial eligibility criteria. One group of women who are targeted by this initiative are those who lack citizenship or a qualifying alien status under 8 USC 1601, (et seq.) [I cite the federal law because state statutes and administrative rules have not been modified to reflect changes made by PRAWORA in 1996 (P.L. 104-193).] Another targeted group are women who are inmates of a public institution (see s. 49.47(6)(c)3., stats. & HFS 103.03(6)). Finally, many of the women lacking a qualifying alien status

Can't say
family
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born child

will also not be in possession of, nor be able to apply for a Social Security Number, which is another non-financial requirement for BadgerCare. While these women could be nonfinancially ineligible for BadgerCare for these reasons, they would still have to meet some of the BadgerCare requirements. These would be the requirements in the statutes of: 1. Not having access to employer-sponsored health insurance, and 2. Paying BadgerCare premiums if their income exceeds 150% FPL, and 3. Complying with the employer verification requirements. In addition, they will need to comply with the admin. rule requirement to not have health insurance coverage in the current month or the previous three calendar months.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (bc) of the statutes is amended to read:

20.435 (4) (bc) *Health Badger Care health care for low-income families program.* As a continuing appropriation, the amounts in the schedule for the badger care Badger Care health care program for low-income families under s. 49.665.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.435 (4) (p) of the statutes is amended to read:

20.435 (4) (p) *Federal aid; Badger Care health care for low-income families program.* All federal moneys received for the badger care Badger Care health care program for low-income families under s. 49.665, to be used for that purpose.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.435 (4) (x) of the statutes is amended to read:

20.435 (4) (x) *Health Badger Care health care for low-income families program.* From the medical assistance Medical Assistance trust fund, all moneys received for the badger care Badger Care health care program for low-income families under s. 49.665.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 49.665 (1) (b) of the statutes is amended to read:

49.665 (1) (b) "Child" means a person who is born and who is under the age of 19.

SECTION 5. 49.665 (1) (g) of the statutes is created to read:

49.665 (1) (g) "Unborn child" means a person from the time of conception until it is born alive.

SECTION 6. 49.665 (2) (b) of the statutes is amended to read:

49.665 (2) (b) If the department of health and family services determines that it needs a waiver to require the verification specified in sub. (4) (a) 3m. or (ap) 3m., the department shall request a waiver from the secretary of the federal department

of health and human services and may not implement the verification requirement under sub. (4) (a) 3m. or (ap) 3m. unless the waiver is granted. If a waiver is required and is granted, the department of health and family services may implement the verification requirement under sub. (4) (a) 3m. or (ap) 3m. as appropriate. If a waiver is not required, the department of health and family services may require the verification specified in sub. (4) (a) 3m. or (ap) 3m. for eligibility determinations and annual review eligibility determinations made by the department, beginning on January 1, 2004.

Adding coverage for an unborn child will require the state to add a separate SCHIP program and obtain federal approval of a SCHIP state plan amendment. We think we should add a provision making the unborn child coverage contingent on federal approval of a state plan amendment to guarantee that federal funding will be available. Perhaps something like:

OK

"The department of health and family services may not implement the unborn child coverage under sub. 49.665 (4) (ap). unless a state plan amendment authorizing this coverage is approved by the federal department of health and human services."

SECTION 7. 49.665 (3) of the statutes is amended to read:

49.665 (3) ADMINISTRATION. The department shall administer a program to provide the health services and benefits described in s. 49.46 (2) to persons that meet the eligibility requirements specified in sub. (4). The department shall promulgate rules setting forth the application procedures and appeal and grievance procedures. The department may promulgate rules limiting access to the program under this section to defined enrollment periods. The department may also promulgate rules establishing a method by which the department may purchase family coverage offered by the employer of a member of an eligible family or by of a member of an eligible child's household, or family or individual coverage offered by the employer of a parent the mother of an eligible unborn child or the mother's spouse, under circumstances in which the department determines that purchasing that coverage would not be more costly than providing the coverage under this section.

ok

SECTION 8. 49.665 (4) (ap) of the statutes is created to read:

49.665 (4) (ap) An unborn child whose ~~parent or parents~~ mother ~~are~~ is not eligible for health care coverage under par. (a) and is not eligible for medical assistance under s. 49.46 and 49.47, is eligible for health care coverage under this section if the unborn child meets the following requirements:

??

1. The family income of the unborn child's ~~parent or parents~~ mother does not exceed 185 percent of the poverty line, except as provided in par. (at) and except that the ~~parent or parents~~ family of an unborn child's mother that is already receiving health care coverage under this section may have an income that does not exceed 200 percent of the poverty line. The department shall establish by rule the criteria to be used to determine income.

not
"family"

2. The unborn child's parent or parents do not have access to

X

employer-subsidized health care coverage.

3. The unborn child's parent or parents have not had access to employer-subsidized health care coverage within the time period established by the department by rule, but not to exceed 18 months, immediately preceding application for health care coverage under this section. The department may establish exceptions to this time period restriction by rule.

3m. Each member of the family of the unborn child's parents mother who is employed provides verification from his or her employer, in the manner specified by the department, of his or her earnings, of whether the employer provides health care coverage for which the unborn child is eligible, and of the amount that the employer pays, if any, towards the cost of the health care coverage, excluding any deductibles or copayments required under the coverage.

4. The unborn child and the parent or parents mother of the unborn child meet all other requirements established by the department by rule. See NOTE below. In establishing other eligibility criteria, the department may not include any health condition requirements.

NOTE: We need to change this highlighted section because these women won't pass all the requirements in the existing rules (See NOTE on page 1) and we can't be sure of getting rule changes in place in time to implement this law change. We also can't be sure of passing rules that conflict with other statutory requirements such as having an SSN under s. 49.82(2), stats..

SECTION 9. 49.665 (4) (at) 3. of the statutes is amended to read:

49.665 (4) (at) 3. The department may not adjust the maximum income level of ~~200%~~ 200 percent of the poverty line for persons, ~~or the parent or parents of an unborn child,~~ already receiving health care coverage under this section.

SECTION 10. 49.665 (4) (c) of the statutes is amended to read:

49.665 (4) (c) No person may be denied health care coverage under this section solely because of a health condition of that person or, of any family member of that person, or of a parent the mother of an unborn child.

SECTION 11. 49.665 (5) (ag) of the statutes is amended to read:

49.665 (5) (ag) Except as provided in pars. (am), (b), and (bm), a family, ~~or a~~ child who does not reside with his or her parent, or a parent mother of an unborn child, who receives health care coverage under this section shall pay a percentage of the cost of that coverage in accordance with a schedule established by the department by rule. The department may not establish or implement a schedule that requires a family or, child, or parent mother of an unborn child to contribute, including the amounts required under par. (am), more than 5% 5 percent of the family's ~~or, child's, or unborn child's parent~~ mother's family income towards the cost of the health care coverage provided under this section.

SECTION 12. 49.665 (5) (am) (intro.) of the statutes is amended to read:

49.665 (5) (am) (intro.) Except as provided in pars. (b) and (bm), a child or,

not
family

change
how?

problem is the
child is receiving
coverage but it's
someone else's
income

not
family

family member, or parentmother of an unborn child, who receives health care coverage under this section shall pay the following cost-sharing amounts:

SECTION 13. 49.665 (5) (b) of the statutes is amended to read:

49.665 (5) (b) The department may not require a family, or child who does not reside with his or her parent, or unborn child's parentmother, with an income below ~~150%~~ 150 percent of the poverty line, to contribute to the cost of health care coverage provided under this section.

only mother here?
not "family" or household?

SECTION 14. 49.665 (5) (c) of the statutes is amended to read:

49.665 (5) (c) The department may establish by rule requirements for wage withholding as a means of collecting ~~the~~ a family's or unborn child's parentmother's share of the cost of the health care coverage under this section.

SECTION 9421. Effective dates; health and family services.

(1) BADGER CARE COVERAGE FOR UNBORN CHILDREN. The treatment of section 49.665 (1) (g), (2) (b), (3), (4) (ap), (at) 3., and (c) and (5) (ag), (am) (intro.), (b), and (c) of the statutes takes effect on ~~October~~ January 1, 2005 ~~2006~~.
(END)

In addition to the edits and comments above, we believe we need statutory language to clarify that only prenatal services be available to the mother of the unborn.

We also recommend adding a provision that requires a medical verification of the mother's pregnancy and that eligibility starts at the first of the month in which pregnancy is verified.

why blacked out?
don't want anymore?
do want

the mother is not eligible

maybe it would be better to approach it from perspective of preg. women entitled to prenatal only, as opposed to unborn child being eligible

Kahler, Pam

From: Groth, Nicole
Sent: Wednesday, December 15, 2004 1:58 PM
To: Blaine, Robert
Cc: Kahler, Pam
Subject: Fwd: Re: Prenatal Care Statutory Language Questions from DOA and LRB



DOA and LRB LRB draft response
Questions with DHF.. from DHFS r...

Robert,
Attached are responses prepared by DHCF staff to both your and Pam Kahler's questions regarding the prenatal care statutory language. Please let me know if you have any further questions.
Nicole

>>> John LaPhilliph 12/15/04 01:47PM >>>
Here are the BHCE responses to the LRB questions, which we have shared with Shelley. In addition, I've included a copy of the statutory draft with some altered revisions from the last time (highlighted in color). Please let me know if you have any questions or concerns. Thank you.

* * * * *
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>>> Nicole Groth 12/3/2004 8:50:08 AM >>>
John and Shelley,
I received some questions from Robert Blaine at DOA and Pam Kahler at LRB in response to your statutory language edits. I have attached those questions (file name: DOA and LRB Questions) and would appreciate any comments you may have on them. I have also attached your comments for reference. Let me know if I should forward these questions to anyone else. If I could have all comments by next Friday (December 10), that would be great. Thanks for your help.

Nicole Groth
OSF/Budget Section
266-9364

1. What family members – mother, spouse, household members – are intended to be used in the eligibility determination process?

It depends on each family's situation. Eligibility is determined on both an individual and a group basis. The details for these determinations for BadgerCare are in the administrative rules and policy handbook, not in statutes.

There are individual eligibility criteria such as having a social security number and being uninsured. After we determine individual eligibility, we look to see if the family meets the group eligibility criteria. These criteria include paying a BadgerCare premium if one is owed and providing verification of information that affects the group or members of the group. Finally, we determine if the family's budgetable income is below the limits for the group size.

The unborn child policy targets a few women who would otherwise be eligible for Medicaid or BadgerCare, except for the fact that these women fail to meet individual eligibility criteria. There is no intention to provide benefits for an unborn child if the family's income exceeds the limits or because the family failed to pay a BadgerCare premium. So depending on the reason, it's possible other members could affect the unborn child's eligibility.

In determining eligibility for the unborn child, we need to look at the mother's eligibility first. If the mother is eligible for Medicaid or BadgerCare, there is no need for unborn coverage because the mother has access to prenatal services. We do not care why the mother is individually ineligible for Medicaid or BadgerCare with the exception of state residency. For example, if the mother was insured, it would not affect the unborn child's BadgerCare eligibility, because the unborn child is not directly covered by the insurance. **NOTE: This last statement is a change from the previous set of comments we provided. Upon further analysis, we have determined that we could not allow the mother's coverage or access to insurance to interfere with the eligibility of the unborn child.**

The next step is to see if the BadgerCare group is eligible. For this step, we must determine the eligibility of all the other household members. Once we know who is non-financially eligible, we then determine who is legally responsible for these eligible members of the family and require information on the income of the legally responsible relatives (LRR). We then budget the countable income of the eligible persons and the LRR's. For this initiative, we would count the unborn child as an eligible group member. If the group's income is under the limit for the group's size, they are eligible, including the unborn child.

The inclusion of the unborn child, in spite of being treated like any other born child in many respects, requires us to make one distinction in the BadgerCare eligibility statute. In cases where a husband and wife have no other born children living with them, neither spouse is eligible for BadgerCare because they are not parents of born children residing with them. While we want to be able to provide

prenatal care services to the mother, there is no intention to extend BadgerCare eligibility to the husband. Therefore, we don't want to treat the unborn like a born child when we determine whether the mother is a parent for BadgerCare eligibility.

- 2. Whose income are we interested in – the mother alone, the mother and spouse (if there is one), or all the people in the mother's household?**

As explained above, it depends on who else in the family is eligible for BadgerCare. Since we detail the budgeting policy in Administrative Rules, we recommend that the statute direct the Department to develop income budgeting policies for this new group.

- 3. If employed, who do we want the employer verification from – employer of mother, spouse, all members of household?**

This depends on whose earned income is being budgeted for the BadgerCare group. We recommend leaving employer verification up to the Department to determine and describe in administrative rule or written policy materials.

- 4. Do we need to specify the nonfinancial eligibility requirement exceptions – for example, the social security number – in the language (note on page of your comments)? These will not apply to the unborn child, who is the eligible BadgerCare beneficiary. Are these to be included for the purpose of identifying the unborn child's mother?**

Our concern is that a policy granting eligibility to an unborn child, who is without a Social Security Number and for whom a number may not be applied for, conflicts with the statutory requirement under s. 49.82(2), stats.. Thus we are asking that something be added to the BC statute allowing an unborn to be eligible for BC without an SSN. No other non-financial eligibility criteria would apply to the unborn child. The only other point to our note is that since the mothers do not qualify for BadgerCare or Medicaid, it appeared contradictory to say in the introduction that the mother otherwise meets the program requirements.

- 5. Why is the provision that says "eligibility commences no earlier than the first day of the month the pregnancy is verified" necessary? Is this to prevent a mother from asserting that any prenatal care provided at any time, even before she applies for coverage (of the unborn child) should be reimbursed or paid by BadgerCare?**

Yes. It is also consistent with regular BadgerCare that there is no backdating of eligibility.

- 6. On page 3 of the redraft instructions, the phrase "each member of the family of the unborn child's mother" is used. Is it necessary to use the term**

"family"? The reason this is an issue is that in other parts of the statute, "family" does not include "unborn" children but only born children. Also, I find this provision confusing. The way it is written would seem to imply that the mother would not need to provide this earnings verification, because it applies to family members of the unborn child's mother, not the mother herself.

*All members
of household
who have
income?*

Yes, we believe it is necessary to use the term, "family", because in some households we may have to verify the earnings of a 17-year-old sibling. The mother's earnings would also have to be verified. The awkward wording was our attempt at reconciling the policy with a definition of family that does not include unborn children, hence the referral to the mother's family. We agree that better wording could make the policy clearer.

- 7. If only the unborn child is eligible for benefits, and prenatal care is the only benefit, what is the problem with saying "parent or parents" instead of "mother"? Is it because if the child is unborn we might not be sure who the other parent is even if the mother is married? Is it because we are only interested in the mother's income, employer verification, etc.?**

Yes, we are not certain at this time that we could establish paternal relationships for unborn children prior to their births. In addition, it is not clear that a spouse of a pregnant woman meets the definition of a parent in 49.665. In some BadgerCare cases where the spouse is a stepparent, their income is not budgeted when determining the eligibility of a child because they do not have any financial responsibility for the child. In addition, a child's eligibility is not tied to his or her parents meeting all of the individual eligibility criteria. We do not want to tie the unborn children's eligibility to any other individual in the statute. Rather, we would establish the criteria in rule as we do now for BadgerCare. The only group eligibility criteria affecting an unborn child should be: residency, payment of premiums, family income below the limits, and verification of wages.

Kahler, Pam

From: Groth, Nicole
Sent: Wednesday, December 01, 2004 2:52 PM
To: Kahler, Pam
Subject: Prenatal Care Stat. Language



Prenatal Care
Questions from D...
Pam,

I received some additional questions from Robert Blaine at DOA regarding the prenatal care statutory language, so I am putting together all the questions to forward to Health Care Financing staff. I just want to clarify that I have your questions right -- you wanted to find out: 1. if the language should state that some nonfinancial eligibility requirements do not have to be met, including the social security number, and 2. if the language should include a restriction against backdated eligibility to the first of the month in which the mother provides medical verification of her pregnancy.

I'm hoping to get this out to program staff tomorrow, so if you could let me know if I have your questions right, or, if you have any more questions, by tomorrow at the end of the day I would really appreciate it. I also have attached Robert's questions in case you have anything you want to add.

Thanks,
Nicole Groth
DHFS/OSF/Budget Section
266-9364

1) Eligibility -- many of the changes requested replaced the term "parent or parents" with "mother." One question, which is relevant for eligibility purposes -- when looking at income eligibility for the benefits, is the proposal to only look at a mother's income or the income for the entire household? Or, do you want to look at the income of just the mom and the spouse (provided there is one)?

2) Services -- the only benefits intended by this proposal are prenatal care benefits, right? That is, the proposal is not to extend the full MA benefit package to qualifying mothers-to-be. *Yes, this proposal is only to cover prenatal care.*

3) On page 3 of your redraft instructions, the phrase "each member of the family of the unborn child's mother" is used. Is it necessary to use the term "family"? The reason this is an issue is that in other parts of the statute, "family" does not include "unborn" children but only born children. Also, I find this provision confusing. The way it is written would seem to imply that the mother would not need to provide this earnings verification, because it applies to family members of the unborn child's mother, not the mother herself.

5) What family members, if any, are intended to be included in the eligibility determination process? Also, please explain why LRB's original draft, which used the terms "parent or parents" versus "mother", did not work from a legal perspective.

6) Regarding page 4 of the redraft instructions, what is meant by: "The exceptions again for the mother are: Not being an inmate..." I don't understand what this means.